



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

JUN 20 2006

Re: **Friedman Furniture Building, 427 N. Main Street, Memphis, TN**
Project Number: **17082**
Taxpayer's Identification Number:

Dear

My review of your appeal of the decision of Technical Preservation Services, National Park Service, denying certification of the rehabilitation of the property cited above is concluded. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. Thank you for meeting with me in Washington on June 2, 2006, and for providing a detailed account of the project.

After careful review of the complete record for this project, I have determined that the rehabilitation of the Friedman Furniture Building, 427 N. Main Street, is not consistent with the historic character of the property and the historic district in which it is located, and that the project does not meet Standards 2 and 9 of the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denial issued on April 17, 2006, by Technical Preservation Services is hereby affirmed.

The Friedman Furniture building was certified as contributing to the Pinch-North Main Historic District on April 17, 2006. The building was in character with the vernacular commercial building types in the district and it retained many characteristics of its commercial use such as a painted sign on the north facade.

The rehabilitation of this "certified historic structure" included repairing and repainting the cast iron storefront, finishing out and partitioning the interior, repairing existing windows, inserting new windows, and enclosing an existing exterior stair on the north facade in a glass and metal addition. The TPS decision was based primarily on its review of the glass and metal addition.

With respect to the new glass and metal addition, Technical Preservation Services (TPS) found that it was not compatible with the massing and materials of the existing historic building, and did not meet Standard 9. Standard 9 states "New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment." I agree with TPS that the addition is out of character with the building and the district. While it is differentiated from the historic building, it is not compatible with it. The addition is a prominent new feature with a visually dramatic configuration. Indeed, it is so prominent as to be the most noticeable feature of the building. In effect, the side elevation has assumed the role and visual prominence historically associated with the primary front elevation. As a result, the new addition has also caused the completed rehabilitation not to meet Standard 2, which states: "The historic character of a

property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."

At our meeting, and in the material submitted for my review, you note the prior approval of the vestibule design by the Board of the Memphis Landmarks Commission. However, as Department of Interior regulations governing the tax incentives program state, the "Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the Secretary for Federal tax purposes" [36 CFR Part 67.7(e)].

It is unfortunate that the project work was largely completed before TPS completed its review of Part 2 of your application, since it is the experience of the National Park Service that such buildings can usually be rehabilitated for a new use in a manner that preserves their historic character. Both the instructions accompanying the historic preservation certification application and Department of Interior regulations governing the program advise owners to apply before starting project work. Despite this advice, owners are free to apply after starting project work. However, "Owners who undertake rehabilitation projects without prior approval from the Secretary do so strictly at their own risk." [36 CFR Part 67.6(a)(1)].

In its decision, TPS also raised questions regarding the new windows inserted on the south elevation, but did not cite them as constituting a further infraction of the Secretary's Standards. I agree that true double hung windows would have been more in keeping with the character of this 19th century structure than the ones inserted. However, like TPS I find that their effect on the historic character of the Friedman Furniture Building is slight compared with that of the addition. Consequently, they do no factor into my decision.

Whenever possible, in making my decisions I try to advise owners of necessary revisions that could enable a project to meet the Secretary of the Interior's Standards. Unfortunately, in this case, considering the extent of the addition's impact on the overall character of the building, and considering that the project is completed, I see no practical modification that would bring the project into conformance with the Secretary of the Interior's Standards.

As Department of the Interior regulations state, my decision is the final administrative decision regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO- TN
IRS